

1 IN THE UNITED STATES DISTRICT COURT  
2 IN AND FOR THE DISTRICT OF DELAWARE

3 KAREN BARKES - - - CIVIL ACTION  
4 :  
5 Plaintiff :  
6 vs. :  
7 FIRST CORRECTIONAL MEDICAL, INC., :  
ET AL :  
8 Defendant : NO. 06-104 (JJF)  
9 - - -

10  
11 Wilmington, Delaware  
12 May 21, 2008  
1:00 o'clock, p.m.  
Rule to Show Cause

13 - - -  
14 BEFORE: HONORABLE JOSEPH J. FARNAN, JR., U. S. D. C. J.  
15 - - -

16 APPEARANCES:

17 MARTIN & WILSON, P. A.  
18 BY: JEFFREY K. MARTIN, ESQ

and

19 LAW OFFICE OF HERBERT G. FEUERHAKE  
20 BY: HERBERT G. FEUERHAKE, ESQ.  
21 Counsel for Plaintiff

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Leonard A. Dibbs  
Official Court Reporter

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P R O C E E D I N G S

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(Court proceedings commenced at 1:03 o'clock p.m.)

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THE COURT: We'll move to the next case which is  
Barkes vs. First Correctional Medical Inc. 06-104.

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Mr. Martin, good afternoon.

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MR. MARTIN: Good afternoon, your Honor.

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We're here at the Court's direction and in a  
similar situation as the last one. As much as Mr. McKenty  
filed a motion to withdraw and the Court entered an order  
directing that defendant First Correctional Medical to obtain  
counsel on or about April 28th, and in the absence of that,  
to appear here today with regard to a potential default.

First of all, your Honor, we take no position  
with regard to Mr. McKenty's application for withdrawal. We  
would like to go forward and ask that a default judgement be  
entered, at least the process begun for a default against  
First Correctional Medical.

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THE COURT: I'm going to grant the motion to  
withdraw.

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I'm going to as noticed and as now moved grant a  
Default Judgment in favor of the plaintiffs in this case.

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I'll leave it to you to move for a hearing to

1     determine damages.

2                     I'll grant you leave to file any amended  
3     pleadings that you believe is appropriate given the present  
4     status of the case; two motions, that being the motion to  
5     withdraw and motion for Default Judgment having been granted.

6                     MR. MARTIN: There are a couple of other issues  
7     that we should address with the Court.

8                     As the Court may be aware there are state  
9     defendants who are party defendants in this matter. The  
10    Court granted their Motion for Summary Judgement.

11                    I took this matter up to the U.S. Court Of  
12    Appeals, perhaps in error. At that point, I hadn't really  
13    thought much about First Correctional Medical. It didn't  
14    appear in this matter.

15                    THE COURT: I want to say this. Are you going to  
16    layout a position here?

17                    MR. MARTIN: Yes.

18                    THE COURT: I'm aware of that. That's why I  
19    granted you leave to file an amended pleading.

20                    The prior grant of Summary Judgement was in the  
21    circumstances of the case on the claims that were raised at  
22    that juncture. I'm not advocating here.

23                    Those circumstances have obviously changed. I'm  
24    aware that you may have claims which you don't have to  
25    disclose today. You can do it in a pleading that may pertain

1 either to third parties or the parties that were initially in  
2 the case that you want to rejoin in the case, then I think  
3 there might be issues related back to the claims.

4 You don't have to convince me that you ought to  
5 have the right to do that. I'm going to grant you the right  
6 to engage in that practice.

7 MR. MARTIN: Thank you, your Honor.

8 THE COURT: Does that makes sense to you?

9 MR. MARTIN: May I have a moment with my  
10 co-counsel, your Honor?

11 THE COURT: Yes?

12 MR. MARTIN: Thank you, your Honor. That's all  
13 we have in this case.

14 (Court proceedings concluded at 1:07 o'clock p.m.)

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